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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,268	01/29/2004	Felix Gti Andrew	50037.208US01	5974
27488 7590 09/06/2007 MERCHANT & GOULD (MICROSOFT) P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER TERMANINI, SAMIR	
			ART UNIT 2178	PAPER NUMBER
			MAIL DATE 09/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

mn

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/768,268	ANDREW, FELIX GTI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Samir Termanini	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **BACKGROUND**

1. This Final Office Action is responsive to the following communications:  
Amendment filed on 5/21/2007.

2. Claims 1-18 are pending in this case. Claims 1 and 11 are independent in form.

### **DOUBLE PATENTING**

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. **Claims 1 and 11** are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 23 of U.S. Patent No. 6,392,673 ('673). Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope and content of the subject matter of '673 patent is directed towards "column or row being designated as resizable" through the use of special rows and columns, and being a superset thereof, includes the instant application's "special row" and "special column" although '673 does specifically not claim a "special row" and "special column." However, it would have been obvious to one with ordinary skill in the pertinent art that the claimed designation includes the determination of a "special row" and "special column" particularly in light of the '673 definition of "determination" (Determine dimensions and alignment of controls for special rows/columns", s150 fig. 2, '673 patent)(emphasis added). The same analysis applies to "a minimum height and width is maintained" limitation ("Restrict width/height as appropriate. Respect minimum size." S220, fig.3, '673 patent). In claim

11, window is the actual "dialogbox" of '673's claim 23 ("windows with controls [are] called dialogues [boxes]." col. 1, lines 15-20). Those portions of the specification which provide support for the patent claims may also be examined and considered when addressing the issue of whether a claim in the application defines an obvious variation of an invention claimed in the patent. In re Vogel, 422 F.2d 438, 441-42, 164 USPQ 619, 622 (CCPA 1970). See also MPEP § 2111.01.

### **CLAIM REJECTIONS - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-18** are rejected under 35 U.S.C. 102(b) as being anticipated by Andrew et al. (US Pat. No. US 6,392,673 B1).

#### **I. Prior Art Anticipation of Claimed Limitations.**

As to independent **claim 1**, Andrew et al. describe(s): A method in an operating system for resizing an operating system interface element containing controls that have control definitions ("control definitions which indicate the size and location of each control relative to the dialogue borders." col. 3, lines 55-65), comprising: receiving a command to resize the interface element ("resizing command," col. 6, lines 5-9); defining

resizable regions of the interface element including determining whether each of the controls within the interface element is resizable ("defining resizable regions" col. 7, lines 40-45); cumulating a total score by adding a value associated with each control in a given column or row contributing its respective value to the total score for the respective column or row the column or row being designated as resizable based on the total score for the column or row and a minimum height and width is maintained ("associated with each of said control definitions with each control in a given column or row contributing its respective value to the total score for the respective column or row, said column or row being designated as resizable based on the total score for said column or so defining guides separating columns and rows of said row" col. 7, lines 40-51; see also "If the total weight is zero or greater, the column or row is deemed resizeable" col. 4, lines 35-37), determining when there is a special row and column (element S140, see fig.2); adjusting the resizable regions in response to the determinations regarding the special row and the special column ("When a column or row is designated as special, the spacing and alignment...these controls is maintained when the dialogue is resized," col. 4, lines 45-50); and resizing the interface element by resizing only the resizable regions of the interface element ("resized by resizing only said resizable regions of said interface element" col. , lines 52-55).

As to dependent **claim 2**, which depends from claim 1, Andrew et al. further discloses(s): wherein the step of defining includes defining guides separating columns and rows of the controls, such that each of the resizable regions is bounded by at least two of the guides (identical language at col. 7, lines 55-60).

As to dependent **claim 3**, which depends from claim 2, Andrew et al. further discloses(s): wherein the guides are defined such that a separation between adjacent ones of the guides is always a minimum magnitude (identical language at col. 7, lines 60-21).

As to dependent **claim 4**, which depends from claim 2, Andrew et al. further discloses(s): wherein defining includes identifying each of the controls as to whether it is vertically or horizontally resizable and designating each of the columns and rows as resizable responsively to the step of identifying (identical language at col. 7, lines 63-67).

As to dependent **claim 5**, which depends from claim 1, Andrew et al. further discloses(s): wherein defining includes identifying each of the controls as to whether it is vertically or horizontally resizable (identical language, col. 8, lines 1-3).

As to dependent **claim 6**, which depends from claim 5, Andrew et al. further discloses(s): wherein defining includes defining guides separating columns and rows of the controls, such that each of the resizable regions is bounded by at least two of the guides (identical language at col. 8, lines 4-7).

As to dependent **claim 7**, which depends from claim 6, Andrew et al. further discloses(s): wherein the interface element is a window ("window" col. 7, lines 27-28).

As to dependent **claim 8**, which depends from claim 2, Andrew et al. further discloses(s): the method of claim 2, further comprising the steps of: designating a

row and column ("column or row," col. 8, lines 8-25) as special when the row contains a set of controls that lies in a predetermined geometric configuration with a predefined range of tolerance (identical language at col. 8, lines 33-36); and resizing the interface element while maintaining a fixed geometric distance between the controls of the set after the step of resizing ("...resizing said interface element while maintaining a fixed geometric distance between said controls of said set..." col. 8, lines 31-39).

As to dependent **claim 9**, which depends from claim 2, Andrew et al. further discloses(s): wherein defining the resizable regions of the interface element including determining whether each of the controls within the interface element is resizable further comprises determining when a control may be resized that is initially considered non-resizable ("dynamically defining resizable regions of said interface element" col. 10, lines 36-42).

As to dependent **claim 10**, which depends from claim 9, Andrew et al. further discloses(s): wherein determining when the control may be resized that is initially considered non-resizable ("treated as one," col. 4, line 57) further comprises determining when there are no controls that would be impacted by resizing the control ("[to] to preserve spacing," col. 4, lines 55-60).

As to independent **claim 11**, Andrew et al. describe(s): A computer-readable medium for dynamically resizing a window without altering operating system code ("A method in an operating system for dynamically resizing a dialogue box of a



graphical user interface without altering operating system code," col. 10, lines 47-67), the window containing controls ("dialogue box containing controls" col. 10, lines 47-67 Note that, "windows with controls [are] called dialogues [boxes]." col. 1, lines 15-20), the controls being defined by properties indicating respective positions of each of the controls within the window and control-type data indicating respective types of each of the controls stored in a memory ("the controls being defined by properties indicating respective positions of each of the controls within said dialogue box and control-type data indicating respective types of each of said controls stored in a memory" col. 10, lines 47-67), comprising: receiving a command to resize the window ("receiving a command to resize the dialogue box" col. 10, lines 47-67; Note that, "windows with controls [are] called dialogues [boxes]." col. 1, lines 15-20), identifying for each control whether the control is resizable based on the control type and a position of the control relative to any of the other controls within the window ("identifying for each control whether the control is resizable based on the control type," col. 10, lines 47-67); responsively to the step of receiving, dividing the window into subareas, responsively to the step of dividing ("responsively to the step of receiving, dividing the dialogue box into subareas" col. 10, lines 47-67), dynamically determining whether the subareas are resizable based on the resizability of the controls that are at least partially in the subareas while maintaining any minimum height associated with the controls ("dynamically determining whether the subareas are resizable based on the resizability of the controls

that are at least partially in the subareas" col. 10, lines 47-67) and resizing the window by resizing the resizable subareas of the window ("resizing the dialogue box by resizing the resizable sub- areas of the dialogue box." col. 10, lines 47-67),

As to dependent **claim 12**, which depends from claim 11, Andrew et al. further discloses(s): dividing the window into subareas, further comprises defining guides separating columns and rows of the controls, such that each of the resizable regions is bounded by at least two of the guides ("defining guides separating columns and rows" col. 8, lines 47-58).

As to dependent **claim 13**, which depends from claim 12, Andrew et al. further discloses(s): the guides are defined such that a separation between adjacent ones of the guides is always a minimum magnitude ("is always a minimum magnitude." col. 7, lines 60-62).

As to dependent **claim 14**, which depends from claim 12, Andrew et al. further discloses(s): dividing the window into subareas, further comprises identifying each of the controls as to whether it is vertically or horizontally resizable and designating each of the columns and rows as resizable (identical language at col. 7, lines 63-67).

As to dependent **claim 15**, which depends from claim 11, Andrew et al. further discloses(s): identifying for each control whether the control is resizable further comprises identifying each of the controls as to whether it is vertically or horizontally resizable (identical language at col. 7, lines 63-67).

As to dependent **claim 16**, which depends from claim 15, Andrew et al. further discloses(s): dividing the window into subareas further comprises defining guides separating columns and rows of the controls, such that each of the resizable regions is bounded by at least two of the guides (identical language at col. 7, lines 55-60).

As to dependent **claim 17**, which depends from claim 11, Andrew et al. further discloses(s): The computer-readable medium of claim 11, further comprising the steps of: designating a row and column ("column or row," col. 8, lines 8-25) as special when the row contains a set of controls that lies in a predetermined geometric configuration with a predefined range of tolerance (identical language at col. 8, lines 33-36); and resizing the window while maintaining a fixed geometric distance between the controls ("...resizing said interface element while maintaining a fixed geometric distance between said controls of said set..." col. 8, lines 31-39).

As to dependent **claim 18**, which depends from claim 11, Andrew et al. further discloses(s): identifying for each control whether the control is resizable based on the control type ("identifying for each control whether the control is resizable based on the control type," col. 10, lines 47-67) and the position of the control relative to any of the other controls within the window further comprises determining when there are no controls that would be impacted by resizing the control ("[to] to preserve spacing," col. 4, lines 55-60).

## RESPONSE TO ARGUMENTS

7. Applicant arguments, see p. 6 filed 5/21/2007, with respect to the 35 U.S.C. §102 Rejections cited by the Examiner in the previous Office Action (dated 2/21/2007), have been fully considered but are not persuasive. Therefore, the rejection stands.

**I. A Rejection under 35 U.S.C. § 102(b) cannot overcome by filing a terminal disclaimer.**

The terminal disclaimer cannot be used to overcome a rejection under 35 U.S.C. § 102(b). Outside the 1-year grace period, applicant is barred from obtaining a patent containing any anticipated or obvious claims.<sup>1</sup>

## CONCLUSION

8. Although not relied upon, the following prior art is made of record because it considered pertinent to applicant's disclosure:

[1]

- [1] Amro (US 5699535 A) for teaching a method, apparatus, and article of manufacture direct a computer system to automatically resize a plurality of open windows displayed on the computer display. The method includes the first step of in response to detecting a command from user controls over a first portion of a displayed window, determining if the displayed window is in a default size or a zoomed out size. The second step includes in response to a second command from user controls, determining if a change in state applies to the plurality of windows. The third step includes if the change in size applies to the plurality of windows and if the displayed window is in the default size, automatically displaying on the computer display the plurality of windows using the zoomed out size.

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<sup>1</sup> In re Foster, 343 F.2d 980, 984, 145 USPQ 166, 170 (CCPA 1965).

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- [2] Owings (US 6335743 B1) for teaching a system and method for providing a window capable of being resized where the window includes at least one control.
- [3] Qureshi et al. (US 6456305 B1) for teaching a method and system for automatically sizing and positioning a graphical display of HTML objects to fit the dimensions and video display resolution of a display window.
- [4] Kellerman et al. (US 6750887 B1) for teaching a method for using client properties, size values and position values for calculation of a component so that any resizing and repositioning of components are done automatically.
- [5] Gunther (US 6983422 B1) for teaching a computer controlled processes relying upon a graphical user interface to effect a man-machine interface.

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samir Termanini whose telephone number is (571) 270-1047. The Examiner can normally be reached from 9 A.M. to 4 P.M., Monday through Friday (excluding alternating Fridays).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

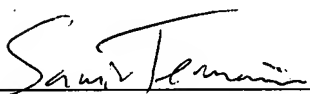
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be


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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
\_\_\_\_\_  
Samir Termanini  
Patent Examiner  
Art Unit 2178

  
STEPHEN HONG  
SENIOR PATENT EXAMINER